

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**JAMES JOSEPH JULUKE, JR.,**

**Plaintiff,**

**v.**

**Case No. 3:14-cv-00393-N**

**SIMON PROPERTY GROUP (TEXAS), L.P.,  
a Texas Limited Partnership, and  
MACY'S RETAIL HOLDINGS, INC.**

**Defendants.**

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**PLAINTIFF, JAMES JOSEPH JULUKE JR.'S, RESPONSE IN OPPOSITION TO  
DEFENDANT, MACY'S RETAIL HOLDINGS, INC.'S OBJECTION TO STIPULATION  
OF DISMISSAL OF SIMON PROPERTY GROUP**

Plaintiff, James Joseph Juluke, Jr. ("Plaintiff"), by and through his undersigned counsel, respectfully submits this Response in Opposition to Defendant, Macy's Retail Holdings, Inc.'s Objection to Stipulation of Dismissal of Simon Property Group and shows unto the Court as follows:

1. On January 31, 2014, Plaintiff initiated this action against Defendants Simon Property Group (Texas), L.P. ("Simon"), Dillard's Properties, Inc. ("Dillard's"), and Macy's Texas, Inc. alleging violations of Title III of the Americans with Disabilities Act ("ADA") at the Irving Mall in Irving, Texas. [Dkt. No. 1].
2. Plaintiff subsequently filed his First Amended Complaint on February 10, 2014 adding Defendant, Macy's Retail Holdings, Inc. ("Macy's"). [Dkt. No. 6].
3. On March 6, 2014, Plaintiff voluntarily dismissed Dillard's and Macy's Texas, Inc. [Dkt. Nos. 8 and 9].
4. On April 16, 2014, Simon served an Answer to Plaintiff's First Amended Complaint, [Dkt. No. 11] and Macy's served its Answer on April 25, 2014, [Dkt. No. 13].

5. On May 19, 2014, Plaintiff and Simon filed a Stipulation of Dismissal, without prejudice as to Simon, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). [Dkt. No. 15].
6. Macy's filed an objection to the Stipulation of Dismissal as to Simon on June 27, 2014, arguing that the dismissal is ineffective because Macy's has appeared in this action and did not join in the Stipulation. Macy's has therefore requested that the Court deny the dismissal of Simon. [See Dkt. No. 20].
7. Plaintiff hereby joins the arguments raised by Simon in its Memorandum of Law in Opposition to Defendant, Macy's Retail Holdings, Inc.'s Objection to Stipulation of Dismissal filed on July 7, 2014. [Dkt. No. 21].

WHEREFORE, Plaintiff respectfully requests that the Court overrule the Objection filed by Macy's Retail Holdings, Inc., as well as any such further relief the Court deems just and proper.

Respectfully Submitted,

KU & MUSSMAN, P.A.

By: /s/ Louis I. Mussman.  
Louis I. Mussman, Esq.  
Florida Bar No. 597155  
Ku & Mussman, P.A.  
12550 Biscayne Blvd., Suite 406  
Miami, FL 33181  
Tel: (305) 891-1322  
Fax: (305) 891-4512  
[Louis@KuMussman.com](mailto:Louis@KuMussman.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 9, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Robert A. Bragalone, Esq.  
Margaret R. Mead, Esq.  
2100 Ross Avenue, Suite 2800

Dallas, Texas 75201

/s/ Louis I. Mussman

Louis I. Mussman